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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,516

12/23/2004

Gerald Lange

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EXAMINER

JACKSON, BRANDON LEE

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

11/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/519,516

Applicant(s)

LANGE, GERALD

Examiner

Brandon Jackson

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 37-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-59 and 61 is/are rejected.
- 7) ☒ Claim(s) 60 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/5/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 37-38, 40-43, 46-55, 57, 59, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange (DE Patent 19,729,755) in view of Mader et al. (US Patent 4,848,794). Lange discloses a protector device (fig. 3) comprising a basic body (fig. 3) having a body facing surface and an upper side, wherein the body facing surface defines a central area (fig. 3) that does not touch the body of the wearer (pg. 7, lines 2-6) and the upper side of the basic body (fig. 3) defines a belt (5) bearing surface over

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which the belt (5) worn by the wearer passes. The protector device (fig. 3) has an outward facing side having a curved even surface void of protrusions and outwardly facing edges. The curved even surface generally extends over the entire length of the protector device (fig. 3). The protector device (fig. 3) further comprises guidance members (2); and support surfaces (6) on the body facing side configured to be placed against wearer and that define a central protected area (fig. 3). The support surface (6) is made of rubber (pg. 7, lines 6-8), which would impart friction upon the body of the wearer. The basic body (fig. 3) comprises a bridge (fig. 3) extending between the support surfaces (6), wherein the bridge (3) defines the central protected area. Lange also discloses a rounded change over transition (fig. 3) between the bridge (3) and the supporting surface (6). However, Lange fails to disclose the rounded surface has a radius of 0.5mm. The radius of 05.mm provides no advantage, is not used for a particular purpose, and does not solve a stated problem. The radius of 05.mm device would function equally as well with a radius of 0.5mm. Therefore, it is a mere design choice and would be obvious to one of ordinary skill in the art at the time of the invention to modify the change-over transition to have a radius of 0.5mm. Lange fails to disclose a cover. However, Mader discloses cinching connector (10) comprising a cover (40) covering the belt (11), belt guidance member (30), and the basic body (20), wherein no components extend beyond the upper side of the cover (40). The cover (40) has space between the cover (40) and the basic body (20) such that the belt (11) may be shifted longitudinally relative to the basic body (20). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the Lange device

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to have a cover, as taught by Mader, to protect the belt from being dislodged from the device. The Lange/Mader cover (40) has longitudinal sides that extend around the basic body (fig. 3).

With respect to claims 41-42 and 48-50, the Lange/Mader device discloses the claimed invention except for the cover having a curvature conforming to the curvature of the belt as worn by the user and the space between the cover and the basic body being less than 1.3mm. However, it would have been an obvious matter of design choice to make the cover a curve to fit upon the basic body. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. The curved cover would have to be convex in order to fit upon the basic body. In addition, the space between the cover and the basic body being less than 1.3 mm provides no advantage, is not used for a particular purpose, and does not solve a stated problem. The Lange/Mader device would function equally as well with a space between the cover of less than 1.3mm. Therefore, it is a mere design choice and would be obvious to one of ordinary skill in the art at the time of the invention to modify the Lange/Mader device to have a space between the cover and the basic body of less than 1.3mm. The cover (40) and basic body (fig. 3) having a space between less than 1.3mm would cause the cover (4) and basic body (fig. 3) to contact the belt (5), wherein if there is contact there is inherent frictional resistance. When the cover (40) connected to the basic body (fig. 3) they integrally form the protector device.

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With respect to claim 46, the Lange/Mader discloses a cover (40) having an cutout on the underside of the cover (40) to receive whatever needs to pass through under the cover, therefore it would be obvious to one of ordinary skill in the art the cutout would serve to guide for the belt (5) as it passes through the device. Moreover, it would be obvious to one of ordinary skill in the art to have the cutout of the front and back of the cover, since it has been held that duplication of the essential working parts of a device requires only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With respect to claim 51, ridge (fig. 5) would define the space between the cover (40) and the basic body (fig. 3).

With respect to claim 61, the areas on the basic body (fig. 3) not covered by the cover (40) are rounded off. The portions of the basic body (fig. 3) that are not covered by the cover (40) would be the supporting surface (6), which are rounded at the bottom to provide comfort for the user.

Claims 39, 44-45, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange/Mader as applied to claim 37 above, and further in view of Boone et al. (US Patent 4,935,994). Lange/Mader substantially discloses the claimed invention; see rejection to claim 37 above. Lange/Mader fails to disclose a fastening device between the cover and the basic body. However, Boone teaches a belt device (10) comprising a cover (38) that covers the belt (12) and belt guide (52), wherein the cover (38) snaps onto the basic body (34). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the Lange/Mader cover to

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snap fasten upon the basic body, as taught by Boone, to prevent the accidental removal of the cover.

With respect to claims 44-45, the Lange/Mader/Boone device discloses the claimed invention except how the cover is displaced from the basic body. The cover being displaced longitudinally or by swiveling provides no advantage, is not used for a particular purpose, and does not solve a stated problem. The Lange/Mader/Boone device would function equally as well being able to be displaced longitudinally or by swiveling. Therefore, it is a mere design choice and would be obvious to one of ordinary skill in the art at the time of the invention to modify the Lange/Mader/Boone to be able to be displaced longitudinally or by swiveling relative to the basic body. In addition, claims 44-45 are apparatus claims that provide no additional limitations to the apparatus; instead these claims provide limitations to the usage of the device.

Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lange/Mader as applied to claim 37 above, and further in view of Parks (US Patent 5,306,045). Lange/Mader substantially discloses the claimed invention; see rejection to claim 37 above. Lange/Mader fails to disclose a friction increasing coating on surfaces contacting the belt. However, Parks discloses a shoulder harness sleeve comprising a friction increasing coating (col. 3, lines 12-20) between the device and the belt. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the Lange/Mader device with a friction coating on the belt contacting surfaces, as taught by Parks, in order to prevent slippage or movement of the belt relative to the device after positioning.

***Allowable Subject Matter***

Claim 60 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon Jackson whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Brandon Jackson  
Examiner  
Art Unit 3772

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